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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,135	01/20/2004	Christopher G. Walls	3962 P 032	8796

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EXAMINER	
LUGO, CARLOS	

ART UNIT	PAPER NUMBER
3676	

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/761,135	WALLS ET AL.	
	Examiner	Art Unit	
	Carlos Lugo	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23 and 26-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23 and 26-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *attachments #1-#3*.

DETAILED ACTION

1. This Office Action is in response to applicant's reconsideration filed on January 23, 2006 and the claims presented on November 25, 2005. In order to clear the misunderstanding that results from the interview with the applicant representative on November 3, 2005, a new Office Action has been made on record.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. **Claims 1-10,17,18,20-23, and 32 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat no 4,109,494 to Allemann.

Regarding claims 1,2,20-23, and 32, Allemann discloses a device for operating a lock comprising a member (57) having a first position (Figure 2) in a first configuration (Figure 5) and a second different position (Figure 8) in a second configuration (Figure 7). The member has structure adapted to cooperate with the lock assembly.

A handle (24) has a first position representing an unlocked position and a second position representing a locked position.

However, Allemann fails to disclose that the handle is operably and adjustably connected to the member such that the first position of the handle when the member is in the first position is the same as the first position of the handle when the member is in the second position or that the second position of the handle when the member

is in the first position is the same as the second position of the handle when the member is in the second position.

Allemann illustrates that the handle (24) is operably and adjustably connected to the member such that the first position of the handle when the member is in the first position (Figure 2) is different as the first position of the handle when the member is in the second position (Figure 8).

However, Allemann discloses that in order to change from a right hand side door assembly to a left hand side door assembly, all is necessary is to rotate the position of the bell crank 60 from the position illustrated in Figure 2 to the position illustrated in Figure 8 (see attachment #1).

The fact that the member (57) is positioned in a different position (horizontal instead of vertical, as seen in Figure 2) is a design consideration since it will not affect the rotation of the handle (24) in the opposed position (see attachment #2). All other functions operate as usual (Col. 4 Line 60 to Col. 5 Line 12).

Therefore, it would have been obvious to one having ordinary skill in the art of latches at the time the invention was made to provide the handle in the same position when the member is at either first or second positions, since it is considered as a design consideration within the art that will not affect the latch mechanism.

As to claim 3, Allemann illustrates that the handle first position is capable of represents an unlocked position and the handle second position is capable of represents a handle locked position (Figures 2 and 6).

As to claims 4 and 5, the fact that in the unlocked position, the handle has a generally vertical configuration and in the locked position, the handle has a generally horizontal configuration is considered as a design consideration within the art since, as explained above, it would not affect the device mechanism.

As to claim 6, Allemann discloses that in the member first position, the member structure is adapted to cooperate with the lock assembly configured for a right hand door (Figures 2 and 5).

As to claim 7, Allemann discloses that that in the member second position, the member structure is adapted to cooperate with the lock assembly configured for a left hand door (Figures 7 and 8).

As to claim 8, Allemann discloses that the second position of the handle is rotationally displaced from the first position of the handle (from Figure 2 to Figure 6).

As to claims 9 and 10, Allemann illustrates that in the handle is rotationally displaced substantially 90° from the first position of the handle to the second position (from Figures 2 to Figure 6).

As to claim 17, Allemann illustrates that the member (57) has a generally rectangular cross-section adapted to cooperate with an aperture (58) of a lock member of the lock assembly.

As to claim 18, Allemann illustrates that the handle (24) is a thumbturn.

4. **Claims 11-16 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,109,494 to Allemann as applied to claim 1 above, and further in view of US Pat No 4,453,753 to Fayerman et al (Fayerman '753).

Allemann fails to disclose that the member is offset to a vertical axis. Allemann disclose that the member is aligned with a vertical axis.

Fayerman '753 teaches that it is well known in the art to have a handle (20) connected to a member (30), which is connected to a lock assembly, wherein the member (30) is offset from a vertical axis (Figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the member described by Allemann offset from a vertical axis, as taught by Fayerman '753, because the fact that the member is offset or not from a vertical axis is considered as a design consideration within the art because the position of the member does not affect the mechanism movement (see attachment #3).

5. **Claim 19 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,109,494 to Allemann as applied to claim 1 above, and further in view of US Pat No 299,633 to Flinn.

Allemann fails to disclose that the handle has first and second apertures so as to receive a fastener to connect the member to the handle.

Flinn teaches that it is well known in the art to have a handle (A) connected to a member (D), wherein the handle presents first and second apertures (a, b, and c) so as to receive a fastener (f) in order to connect the member and the handle at a desire configuration.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the handle described by Allemann with several

apertures, as taught by Flinn, in order to connect the member and the handle at a desire configuration or to disengage the handle and the member at any event.

6. **Claims 26-29 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat no 4,109,494 to Allemann in view of US Pat No 4,671,089 to Fleming et al (Fleming '089).

As to claims 26 and 29, Allemann discloses a device for operating a lock comprising a member (57) having a first position (Figure 2) in a first configuration (Figure 5) and a second different position (Figure 8) in a second configuration (Figure 7). The member has structure adapted to cooperate with the lock assembly.

A handle (24) has a first position representing an unlocked position and a second position representing a locked position.

However, Allemann fails to disclose that the handle is operably and adjustably connected to the member such that the first position of the handle when the member is in the first position is the same as the first position of the handle when the member is in the second position or that the second position of the handle when the member is in the first position is the same as the second position of the handle when the member is in the second position.

Allemann illustrates that the handle (24) is operably and adjustably connected to the member such that the first position of the handle when the member is in the first position (Figure 2) is different as the first position of the handle when the member is in the second position (Figure 8).

However, Allemann discloses that in order to change from a right hand side door assembly to a left hand side door assembly, all is necessary is to rotate the position of the bell crank 60 from the position illustrated in Figure 2 to the position illustrated in Figure 8 (see attachment #1).

The fact that the member (57) is positioned in a different position (horizontal instead of vertical, as seen in Figure 2) is a design consideration since it will not affect the rotation of the handle (24) in the opposed position (see attachment #2). All other functions operate as usual (Col. 4 Line 60 to Col. 5 Line 12).

Therefore, it would have been obvious to one having ordinary skill in the art of latches at the time the invention was made to provide the handle in the same position when the member is at either first or second positions, since it is considered as a design consideration within the art that will not affect the latch mechanism.

Further, Allemann fails to disclose that the device further comprises an adaptor connecting the member to the handle.

Fleming '089 teaches that it is well known in the art to provide an adapter (101) having a slot that receives a member to connect the member with the handle.

It would have been obvious to one having ordinary skill in the art of latches to provide the device described by Allemann with an adaptor, as taught by Fleming '089, in order to connect the member with the handle.

As to claims 27 and 28, Allemann illustrates that the member (57) has a generally rectangular cross-section adapted to cooperate with an aperture (58) of a lock member of the lock assembly.

7. **Claims 30 and 31 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,109,494 to Allemann in view of US Pat No 4,671,089 to Fleming et al (Fleming '089) as applied to claim 29 above, and further in view of US Pat No 299,633 to Flinn.

Allemann, as modified by Fleming '089, fails to disclose that the adaptor is fastened to the member by a screw.

Flinn teaches that it is well known in the art to have a handle (A) connected to a member (D) by means of an adaptor (B), wherein the adaptor is fastened to the member by means of screws (f).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the adaptor described by Allemann, as modified by Fleming '089, with several apertures, as taught by Flinn, in order to fixedly secure the member and the adaptor.

8. **Claims 1-10,17,18,20-23,26-29, and 32 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,671,089 to Fleming et al (Fleming '089) in view of US Pat No 5,092,144 to Fleming et al (Fleming '144).

Regarding claims 1-3,20-23, and 32, Fleming '089 discloses a device for operating a lock comprising a member (87) having a structure adapted to cooperate with the lock assembly and a handle (26).

However, Fleming '089 fails to disclose that the handle is operably and adjustably connected to the member such that the first position of the handle when the member is in the first position is the same as the first position of the handle when

the member is in the second position or that the second position of the handle when the member is in the first position is the same as the second position of the handle when the member is in the second position.

Fleming '144 teaches that it is well known in the art to provide a device (10) for operating a lock assembly having a handle (18) having a first position (when the handle is positioned in a right hand side of a door) that is "different" than a second position of the handle (when the handle is positioned in a left hand side of a door).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a device capable of being mounted in either side of the door, as taught by Fleming '144, into a device as described by Fleming '089, in order to have a device that can adjust to any type of door.

As to claims 4 and 5, Fleming '089 discloses that the handle, when is in the unlocked position, has a generally vertical configuration and when it is in the locked position, the handle has a generally horizontal configuration (Col. 7 Lines 50-54).

As to claims 6 and 7, Fleming '089, as modified by Fleming '144, discloses that the member structure (87) is adapted to cooperate with the lock assembly configured for a right or left hand door.

As to claims 8-10, Fleming '089 discloses that the second position of the handle is rotationally displaced from the first position of the handle.

As to claim 17, Fleming '089 illustrates that the member has a generally rectangular cross-section adapted to cooperate with an aperture of a lock member of the lock assembly.

As to claim 18, Fleming '089 discloses that the handle is a thumbturn.

As to claims 26 and 29, Fleming '089 further discloses that the device comprises an adaptor (101) having a slot that receives the member to connect the handle to the member.

As to claims 27 and 28, Fleming '089 illustrates that the cross-section of the member is a quadrilateral.

9. **Claims 11-16 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,671,089 to Fleming et al (Fleming '089) in view of US Pat No 5,092,144 to Fleming et al (Fleming '144) as applied to claim 1 above, and further in view of US Pat No 4,453,753 to Fayerman et al (Fayerman '753).

Fleming '089, as modified by Fleming '144, fails to disclose that the member is offset to a vertical axis. Fleming '089 and Fleming '144 disclose that the member is aligned with a vertical axis.

Fayerman '753 teaches that it is well known in the art to have a handle (20) connected to a member (30), which is connected to a lock assembly, wherein the member (30) is offset from a vertical axis (Figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the member offset from a vertical axis, as taught by Fayerman '753, into a device as described by Fleming '089, as modified by Fleming '144, because the fact that the member is offset or not from a vertical axis is considered as a design consideration within the art because the position of the member does not affect the mechanism movement.

10. **Claim 19 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,671,089 to Fleming et al (Fleming '089) in view of US Pat No 5,092,144 to Fleming et al (Fleming '144) as applied to claim 1 above, and further in view of US Pat No 299,633 to Flinn.

Fleming '089, as modified by Fleming '144, fails to disclose that the handle has first and second apertures so as to receive a fastener to connect the member to the handle.

Flinn teaches that it is well known in the art to have a handle (A) connected to a member (D), wherein the handle presents first and second apertures (a, b, and c) so as to receive a fastener (f) in order to connect the member and the handle at a desire configuration.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a handle with several apertures, as taught by Flinn, into a device as described by Fleming '089, as modified by Fleming '144, in order to connect the member and the handle at a desire configuration or to disengage the handle and the member at any event.

11. **Claims 30 and 31 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,671,089 to Fleming et al (Fleming '089) in view of US Pat No 5,092,144 to Fleming et al (Fleming '144) as applied to claim 29 above, and further in view of US Pat No 299,633 to Flinn.

Fleming '089, as modified by Fleming '144, fails to disclose that the adaptor is fastened to the member by a screw.

Flinn teaches that it is well known in the art to have a handle (A) connected to a member (D) by means of an adaptor (B), wherein the adaptor is fastened to the member by means of screws (f).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the adaptor described by Fleming '089, as modified by Fleming '144, with several apertures, as taught by Flinn, in order to fixedly secure the member and the adaptor.

Response to Arguments

12. In order to clear the misunderstanding that results from the interview with the applicant representative on November 3, 2005, a new Office Action has been made on record.

As to the arguments presented by the applicant that the claims, as presented, are allowable over the prior art of record, the argument is not persuasive. As seen above, the new rejection to the claims in view of Allemann has been made on record. Further, the applicant fails to amend the claims according to what the examiner discuss in the interview. The examiner was clear that the rejection in view of Fleming '089, as modified by Fleming '144 was going to be withdrawn if the applicant amends the claims to say that the handle is at first position that is at a different angle than a second position of the handle, according to the explanation given by the examiner.

Nevertheless, in order to clear the misunderstanding, a new Office Action has been made on the record.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7049.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

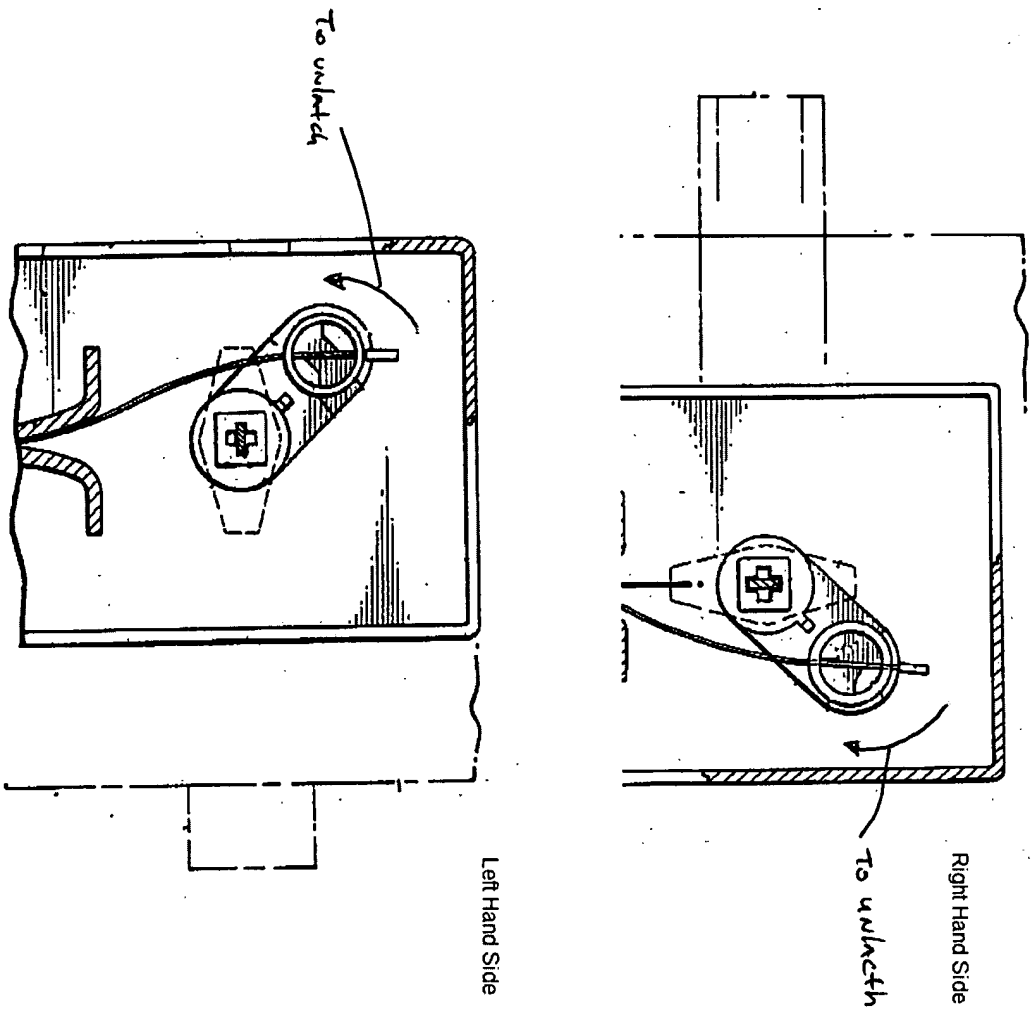
C.L.

Carlos Lugo
Patent Examiner
AU 3676

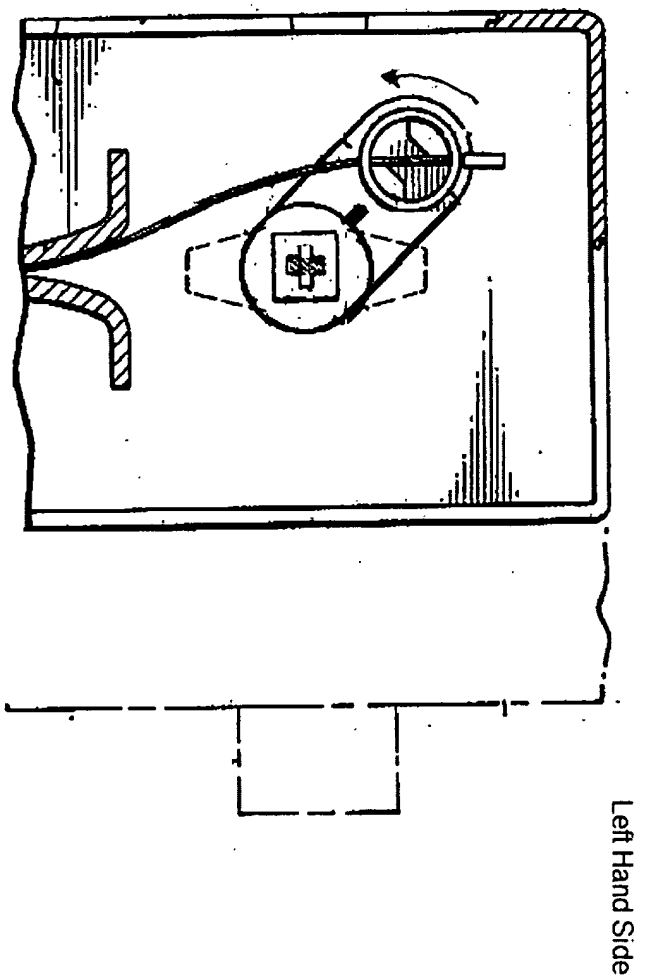
January 30, 2006.

Brian Glessner

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER



Attachment #1



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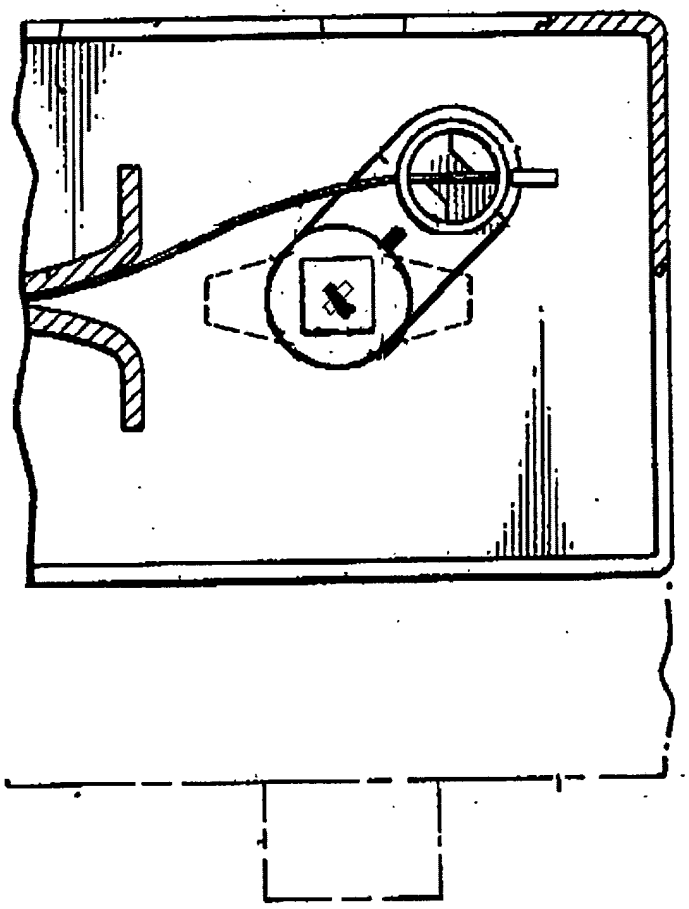

Attachment #3